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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Reclassification of License
Of Station KIOC(FM)
Orange, Texas

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RM-11283

ORDER TO SHOW CAUSE

Adopted: October 12, 2005

Released: October 14, 2005

Comment Date: November 28, 2005

By the Assistant Chief, Audio Division; Media Bureau:

1. Before the Audio Division is a Petition for Rule Making filed by Charles Crawford, requesting the allotment of FM Channel 293A at Iowa, Louisiana, as that community's first local aural broadcast transmission service. To accommodate that allotment, petitioner requests the reclassification of Station KIOC(FM), Channel 291C, Orange, Texas, to specify operation on Channel 291C0.¹ Station KIOC(FM) currently operates on Channel 291C with an ERP of 100 kilowatts at 326 meters HAAT. The station is below the minimum Class C antenna height requirements of 451 meters HAAT. Because Station KIOC(FM) is operating below minimum Class C standards, it is subject to reclassification as a Class C0 facility.²

2. Section 316(a) of the Communications Act, as amended, permits the Commission to modify an authorization if such action is in the public interest. Further, pursuant to Section 316(a), we are required to notify the affected station of the proposed action, as well as the public interest reasons for the action, and to afford the licensee at least 30 days to respond. This procedure is set forth in Section 1.87 of the Commission's Rules.³

3. The reclassification of a Class C FM station to a Class C0 station may be initiated through the

¹ Petitioner also requests the reclassification of Station KOVE-FM, Channel 293C, Galveston, Texas. An order to show cause why the authorization for Station KOVE-FM should not be modified to specify operation on Channel 293C0 has previously been issued in response to another rule making petition, so we need not issue such an order in response to the proposal for Iowa, Louisiana. See *Reclassification of License of Station KOVE-FM, Galveston, Texas*, RM-11084, DA 05-2301 (August 19, 2005).

² See *1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules*, 15 FCC Rcd 21,649 (2000) ("Second Report and Order"), and Section 1.420(g), n. 2, and Section 73.3573, n. 4, of the Commission's Rules.

³ See *Modification of FM and Television Licenses Pursuant to Section 316 of the Communications Act* 2 FCC Rcd 3327 (1987).

filing of a petition for rule making to amend the FM Table of Allotments.⁴ In instances where an initiating petition proposes both to amend the FM Table of Allotments and to reclassify a Class C FM station, the Commission must issue an order to show cause, as set forth in Section 73.3573, note 4, of the Commission's rules. In such circumstances, a notice of proposed rule making will be issued only after the reclassification issue has been resolved.

4. A petitioner proposing both amendment of the FM Table of Allotments and reclassification of a Class C FM station must certify that no alternative channel is available for the proposed service.⁵ Petitioner has provided the requisite certification.

7. A Class C0 reclassification of Station KIOC(FM) at Orange, Texas, would accommodate petitioner's request to allot Channel 293A to Iowa, Louisiana, as that community's first local service. Petitioner's request for reclassification therefore has sufficient public interest benefit to warrant the issuance of an order to show cause. Accordingly, we shall issue this *Order to Show Cause* directed to Capstar TX Limited Partnership ("Capstar"), licensee of Station KIOC(FM), Orange, Texas. Capstar is required to show cause why its authorization should not be modified to specify operation on Channel 291C0 in lieu of Channel 291C at Orange, Texas.

8. The license for Station KIOC(FM), Channel 290C, Orange, Texas, can be modified to Channel 291C0 at its current authorized transmitter site, located at coordinates 30-09-20 NL and 93-59-10 WL. Pursuant to Section 1.87 of the Commission's Rules, Capstar may not later than November 28, 2005, file a written statement showing with particularity why its license should not be modified as proposed in this *Order to Show Cause*. The Commission may call on Capstar to furnish additional information. If Capstar raises a substantial and material question of fact, a hearing may be required to resolve such a question pursuant to Section 1.87. Upon review of the statements and/or additional information furnished, the Commission may grant the modifications, deny the modifications, or set the matter of modifications for hearing. If no written statement is filed by the date referenced above, Capstar will be deemed to have consented to the modification as proposed in this *Order to Show Cause* and a final *Order* will be issued by the Commission, if the channel modification is found to be in the public interest.

9. If Capstar chooses to seek authority to modify its license to increase antenna height to at least 451 meters HAAT, it must express its intention to file the necessary application by the comment date specified in this *Order*. It also must file an acceptable application for a construction permit for Station KIOC(FM) with the Commission within 180 days subsequent to the show cause comment due date (November 28, 2005). Upon the filing of an acceptable construction permit application, the proposal to allot Channel 293A at Iowa, Louisiana, will be dismissed. The present three-year construction period will be applicable if a construction permit is obtained by Capstar for Channel 291C as specified herein, under this procedure. If the construction is not completed as authorized, Station KIOC(FM) is subject to automatic reclassification as a Class C0 station, and, in that event, a new petition for rule making to allot Channel 293A at Iowa, Louisiana, may be refiled.

⁴ *Second Report and Order, supra*, and 47 C.F.R. § 1.420, n. 2.

⁵ See 47 C.F.R. §§ 73.3573, n. 4 and 1.420(g), n.2. See also *Second Report and Order*, 15 FCC Rcd at 21,662, ¶ 26.

10. IT IS THEREFORE ORDERED, That Capstar TX Limited Partnership show cause why its authorization for station KIOC(FM) should not be modified to specify operation on Channel 291C0 in lieu of Channel 291C at Orange, Texas, and

11. IT IS FURTHER ORDERED, That the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL Send a copy of this *Order to Show Cause* by Certified Mail, Return Receipt Requested, to Capstar TX Limited Partnership, licensee of KIOC(FM), Orange, Texas, and its counsel, as indicated below:

Andrew C. Levin, Chief Legal Officer
Capstar TX Limited Partnership
2625 S. Memorial Drive - Suite A
Tulsa, Oklahoma 74129

Dorann Bunkin, Esq.
Wiley Rein & Fielding LLP
1776 K Street, N.W.
Washington, D.C. 20006
(Counsel for Capstar TX Limited Partnership)

12. Any protest to this proposed reclassification may be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). Protests should be filed with the Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, SW, TW-A325, Washington, D.C. 20554. Additionally, a copy of any filing should be served on:

Charles Crawford
4553 Bordeaux Avenue
Dallas, Texas 75205

13. The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Pennsylvania Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail or Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Office of the Secretary, Federal Communications Commission. Any filing that is not addressed to the Office of the Secretary will be treated as filed on the day it is received in the Office of the Secretary. See 47 C.F.R. § 1.7. Accordingly, failure to follow the specified requirements may result in the treatment of a filing as untimely.

14. For further information concerning this proceeding, contact Deborah A. Dupont, Media Bureau, at (202) 418-7072.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau